

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CAPTIVA LAKE INVESTMENTS, L.L.C.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:10-cv-01890-CEJ
)	
FIDELITY NATIONAL TITLE)	
INSURANCE COMPANY, SUCCESSOR)	
BY-MERGER TO LAWYERS TITLE)	
INSURANCE CORPORATION)	
)	
Defendant.)	

MEMORANDUM TO THE COURT

On July 24, 2015, the jury returned a Special Interrogatory in which it found that Fidelity National Title Insurance Company, successor-by-merger to Lawyers Title Insurance Corporation, delayed payment on the insurance claim submitted by Captiva Lake Investments, LLC without reasonable cause or excuse in violation of Missouri law (vexatious refusal). This finding entitles Captiva to an award of its attorney fees. MO. REV. STAT. § 375.296. It had been previously stipulated that the Court would determine the specific amount of the award for attorney fees if the jury found in Captiva's favor on its vexatious refusal claim. Captiva hereby requests an award of attorney fees in the amount of \$2,233,698.00 (two million two hundred thirty-three thousand, six hundred ninety-eight dollars). In support, Captiva submits the Declaration of Richard A. Wunderlich, who served as Captiva's lead counsel in this lawsuit and is a member of the law firm of Lewis Rice LLC. Mr. Wunderlich's Declaration details the 6,569.7 hours that Lewis Rice LLC spent litigating this lawsuit. Such Declaration is attached to this Memorandum as **Exhibit 1** and incorporated herein by reference.

No portion of the award being sought includes any of the fees awarded to Captiva on account of a second motion for sanctions that was granted by the Court. *See* Order (Dkt. No. 284), Feb. 23, 2015, at 1; Memo. to the Court (Dkt. No. 282), Feb. 9, 2015, at 1. The fees being sought herein are reasonably related to Captiva's efforts to obtain payment under the title insurance policy, and these efforts began in 2010 and continued through the completion of trial on July 24, 2015 and include necessary and extensive discovery, trial preparation, and trial. Accordingly, Captiva respectfully requests that the Court award it \$2,233,698.00 (two million two hundred thirty-three thousand, six hundred ninety-eight dollars) in attorney fees in accord with the jury's verdict on July 24, 2015. A separate bill of costs will be submitted to the Court.

Respectfully submitted,

LEWIS RICE LLC

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Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned certifies that a true and complete copy of the foregoing was served the 31st day of July, 2015 via the Court's ECF system upon all counsel of record.

/s/ Steven D. Hall